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as Trustee of the Hone Family Trust*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

In re:

CIRCUIT CITY STORES, INC.,  
et al.,

Debtors.

Chapter 11

Case No. 08-35653-KRH

Jointly Administered

**LIMITED OBJECTION TO ORDER PURSUANT TO 11 U.S.C. SECTIONS 105(a),  
365(a) AND 554 OF FED. R. BANKR. P. 6006 AUTHORIZING REJECTION OF  
UNEXPIRED LEASES AND SUBLEASES OF NON-RESIDENTIAL REAL PROPERTY  
AND ABANDONMENT OF PERSONAL PROPERTY EFFECTIVE AS OF THE  
PETITION DATE**

Melvin Walton Hone, as Trustee of the Hone Family Trust (the “Landlord”), by and through its undersigned counsel, hereby submits this limited objection to the Debtors’ Motion for Order Pursuant to 11 U.S.C. §§ 105(a), 365(a), and 554 and Fed. R. Bankr.P. 6006 Authorizing Rejection of Unexpired Leases of Nonresidential Real Property and Abandonment of Personal Property Effective as of the Petition Date (the “Rejection Motion”) as follows:

1. Landlord is the owner of the real estate located at 8099 Moores Lane, Brentwood, Tennessee (the “Leased Premises”).

2. The Leased Premises is the subject of a written lease dated November 7, 1995 (the "Lease Agreement"), between the Debtor, as lessee, and Principal Mutual Life Insurance Company ("Principal"). In connection with its purchase of the Leased Premises, Landlord assumed Principal's rights under the Lease Agreement. Debtor identifies the Leased Premises at Location Number 6566 in the Rejection Motion. A copy of the Lease Agreement is attached as **Exhibit 1** hereto.

3. Prior to the Petition Date, the Debtor subleased the Leased Premises to Pot Luck Enterprises, Inc. ("Pot Luck") under the terms of a written sublease agreement dated February 28, 2005 (the "Sublease Agreement"). Potluck currently operates an Ashley Furniture Store at the Leased Premises.

4. Pot Luck remains in possession and control of and continues to operate at the Leased Premises. Retroactive rejection of the Lease Agreement is ineffective and unwarranted in that Landlord is unable to retake possession of the Leased Premises because the subtenant continues to operate at that location.

5. As a result of the continuing occupancy of the subtenant, the Debtor is not in a position to surrender the Leased Premises today, and could not have done so as of the Petition Date, rendering any attempted retroactive rejection ineffective. Accordingly, it would be inequitable for the Court to permit rejection to take place until such time as Landlord can exercise control over the Leased Premises.

6. Absent the Debtor's ability to deliver possession of the Leased Premises to Landlord as of the Petition Date, retroactive rejection is inappropriate and should not be allowed in this case.

7. Landlord joins in the objections to the Rejection Motion filed on behalf of other landlords to the extent not inconsistent with this limited objection.

WHEREFORE, Landlord respectfully requests that the Rejection Motion be denied on the basis set forth herein, and that Landlord have such other and further relief as may be just and proper.

DATED: November 25, 2008

Respectfully submitted,

/s/ Charles W. Chotvac  
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*Counsel for Melvin Walton Hone,  
as Trustee of the Hone Family Trust*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 25th day of November, 2008, the foregoing Limited Objection was filed and served electronically using the Court's CM/ECF system, and that, in addition, true and correct copies of the foregoing were mailed, First-Class postage prepaid, to the following parties:

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